

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In the Bankruptcy Matter of:

David A Waugh

Debtor

Bankruptcy No. 21-13876
Judge Donald R. Cassling
Chapter: 13

NOTICE OF MOTION

TO: David A Waugh, 23000 Westwind Drive, Richton Park, IL 60471
Thomas H. Hooper, Office of the Chapter 13 Trustee, 55 E. Monroe St., Suite 3850,
Chicago, IL 60603
David Freydin, Law Offices of David Freydin Ltd, 8707 Skokie Blvd, Suite 312, Skokie,
IL 60077
Patrick S Layng, Office of the U.S. Trustee, Region 11, 219 S Dearborn St, Room 873,
Chicago, IL 60604

Please take notice on May 5, 2022 at 9:30 a.m., I shall appear before the Honorable Donald R. Cassling, or any judge sitting in that judge's place, and present the attached motion.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in the court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 161 414 7941 and the passcode is 619. The meeting ID and passcode can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment dated above, you must file a Notice of Objection no later than two (2) business days before the date. If a Notice of Objection is timely filed, the motion will be called on presentment date. If no notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

/s/ Josephine J. Miceli

Josephine J. Miceli, IL ARDC #6243494

CERTIFICATE OF SERVICE

I, Josephine J. Miceli, an attorney certify that I served the attached motion by mailing a copy to the Debtor at the address listed above by depositing the same in the U.S. mail, first class, postage prepaid at 230 W. Monroe St., Chicago, IL 60606 on or before 5:00 p.m. on April 26, 2022. The remaining parties were served by the CM/ECF electronic noticing system.

/s/ Josephine J. Miceli

Josephine J. Miceli, IL ARDC #6243494

Josephine J. Miceli
Johnson, Blumberg, & Associates, LLC
230 W. Monroe Street, Suite 1125
Chicago, Illinois 60606
Ph. 312-541-9710
Fax 312-541-9711

NOTICE:

THIS LAW FIRM IS ATTEMPTING TO COLLECT A DEBT AND ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES Select Portfolio Servicing, Inc. as the servicing agent for DLJ Mortgage Capital, Inc. (hereinafter “Movant”), through its attorney, Josephine J. Miceli of Johnson, Blumberg & Associates, LLC, and states as follows:

1. The Movant, a party in interest, holds a Mortgage dated May 9, 2003 on the property located at 23000 Westwind Drive, Richton Park, Illinois 60471, in the original amount of \$154,515.00. (A copy of the Note, Mortgage, Assignment of Mortgage, and Loan Modification are attached as Exhibit A, B, C, and D respectively and incorporated herein by reference).
2. The above-captioned Chapter 13 case was filed on December 8, 2021 and the Debtor's Plan has not yet been confirmed.
3. The proposed plan provides for the Debtor to be the disbursing agent for the post petition mortgage payments and the Chapter 13 Trustee to be disbursing agent for the pre-petition arrearage.
4. As of April 11, 2022, the Debtor has failed to maintain post-petition payments thereby accruing a default of 3 payments from February 1, 2022 through April 1, 2022 for a post-petition arrearage total of \$2,937.06. A summary of the post-petition arrearage is as follows:

February 1, 2022 to April 1, 2022, 3 payments at \$ 979.02 each

5. The Movant adopts the facts set forth in the Statement of Default as additional allegations in support of this motion.
6. The Movant has no adequate protection in that the Debtor is in material default of the terms of the Plan by not making the required payments to the Movant and there is little or no equity in the property.
7. That should the Debtor wish to reinstate while under the jurisdiction of this Court, Movant requests to be reimbursed for the costs and attorney fees of filing this motion.
8. That Movant is entitled to relief pursuant to 11 U.S.C. 362(d).
9. The Movant requests waiver of 14 day stay provision of Bankruptcy Rule of Procedure 4001(a)(3) .

WHEREFORE, Select Portfolio Servicing, Inc. as the servicing agent for DLJ Mortgage Capital, Inc. prays for the entry of an order modifying, annulling or terminating the Automatic Stay instanter to allow foreclosure, eviction, or any other action with respect to the Movant protecting its rights in the subject property as the Court deems appropriate and for such other relief as the Court deems just.

/s/ Josephine J. Miceli

Josephine J. Miceli, ARDC #6243494
Attorney for Select Portfolio Servicing, Inc. as the
servicing agent for DLJ Mortgage Capital, Inc.

Josephine J. Miceli
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